

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

JONOTHAN E. PRATHER,)	
)	
Petitioner,)	Civil Action No. 18-498
)	
vs.)	Judge Arthur J. Schwab/
)	Magistrate Judge Maureen P. Kelly
SUPERINTENDANT ROBERT)	
GILMORE; and THE ATTORNEY)	
GENERAL OF THE STATE OF)	
PENNSYLVANIA,)	
)	
Respondents.)	

ORDER

Jonathan E. Prather ("Petitioner") is currently incarcerated in the State Correctional Institution at Greene ("SCI-Greene"), which is located in Greene County, Pennsylvania, which is within the territorial boundaries of the United States District Court for the Western District of Pennsylvania. 28 U.S.C. § 118(c). Petitioner has filed a Petition Under 28 U.S.C. Subsection 2254 for Writ of Habeas Corpus by a Person in State Custody (the "Petition"). By means of the Petition, he challenges the validity of his conviction, which was obtained in the Court of Common Pleas of Potter County, which is located within the territorial boundaries of the United States District Court for the Middle District of Pennsylvania. ECF No. 3 ¶ 1(a).

The case was referred to Chief Magistrate Judge Maureen Kelly in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Local Civil Rules 72.C and D.

Chief Magistrate Judge Kelly's Report and Recommendation (the "Report"), ECF No. 5, filed on April 25, 2018, recommended that the Petition be transferred to the United States District Court for the Middle District of Pennsylvania. Petitioner was informed that he could file



Fwd: Jonothan Prather v. Gilmore, No. 18-498

Nicole Moschetta to: Linda Krings, Judge Arthur J. Schwab

05/03/2018 11:20 AM

From: Nicole Moschetta/PAWD/03/USCOURTS
To: Linda Krings/PAWD/03/USCOURTS@uscourts, Judge Arthur J. Schwab/PAWD/03/USCOURTS@uscourts

1 attachment



Prather, Jonothan v. Gilmore, No. 18-498 MOAR.docx

This looks good to me, can u please file Linda, if Judge is okay with it too? Thanks

Sent from my iPhone

Begin forwarded message:

From: "Michael Rizza" <Michael_Rizza@pawd.uscourts.gov>
Date: May 3, 2018 at 11:18:17 AM EDT
To: "Nicole Moschetta" <nicole_moschetta@pawd.uscourts.gov>
Subject: Jonothan Prather v. Gilmore, No. 18-498

Good Morning Nicole,

Attached hereto, please find a draft Order for Judge Schwab's consideration in overruling the Objections and adopting the Report.

Sincerely,

Michael

(See attached file: Prather, Jonothan v. Gilmore, No. 18-498 MOAR.docx)

Objections to the Report by May 14, 2018. Petitioner filed Objections on May 1, 2018. ECF No. 6. Nothing in those Objections merits rejection of the Report and Recommendation.

Petitioner does not deny that his conviction was obtained in a county located within the Middle District of Pennsylvania. Rather, he only argues that, if a hearing were to be required in the Middle District of Pennsylvania, it might interfere with his ongoing medical treatment for Multiple Sclerosis occurring here in the Western District of Pennsylvania. However, we find that evidentiary hearings are rarely conducted in habeas proceedings under Section 2254, especially, under the AEDPA, and a review of the issues raised by Petitioner, dependent, as they are, upon Miller v. Alabama, 132 S.Ct. 2455 (2012), does not seem to require a hearing, especially since, Petitioner was concededly 19 years old at the time of the offense. ECF No. 3 at 10. Given the speculative nature of the possibility of a hearing, we do not find that the Objections provide a persuasive reason for not transferring this case to the Middle District of Pennsylvania.

AND NOW, this 3rd day of May 2018;

IT IS HEREBY ORDERED, upon de novo review of the Report and the Objections thereto, that the Clerk's Office is to transfer this Petition forthwith to the United States District Court for the Middle District of Pennsylvania. The Report is adopted as the opinion of the court.

BY THE COURT:

/s/


ARTHUR J. SCHWAB
UNITED STATES DISTRICT JUDGE

cc: The Honorable Maureen P. Kelly
Chief United States Magistrate Judge

JONOTHAN E. PRATHER
KL-8100
SCI Greene
175 Progress Drive
Waynesburg, PA 15370